

Department of Correction and Rehabilitation: Alternative Dispute Resolution (ADR) Process

CountyStat meeting #2
March 14, 2008

CountyStat Principles

- Require Data-Driven Performance
- Promote Strategic Governance
- Increase Government Transparency
- Foster a Culture of Accountability



Agenda

- **Introductions**
- **Follow-up items from last meeting**
- **Disciplinary process**
- **Timelines from DOCR cases**
- **Recommendations for DOCR cases**
 - DOCR
 - OHR
- **Other issues related to ADR**
- **Wrap-up**



Follow-Up From January 30th Meeting

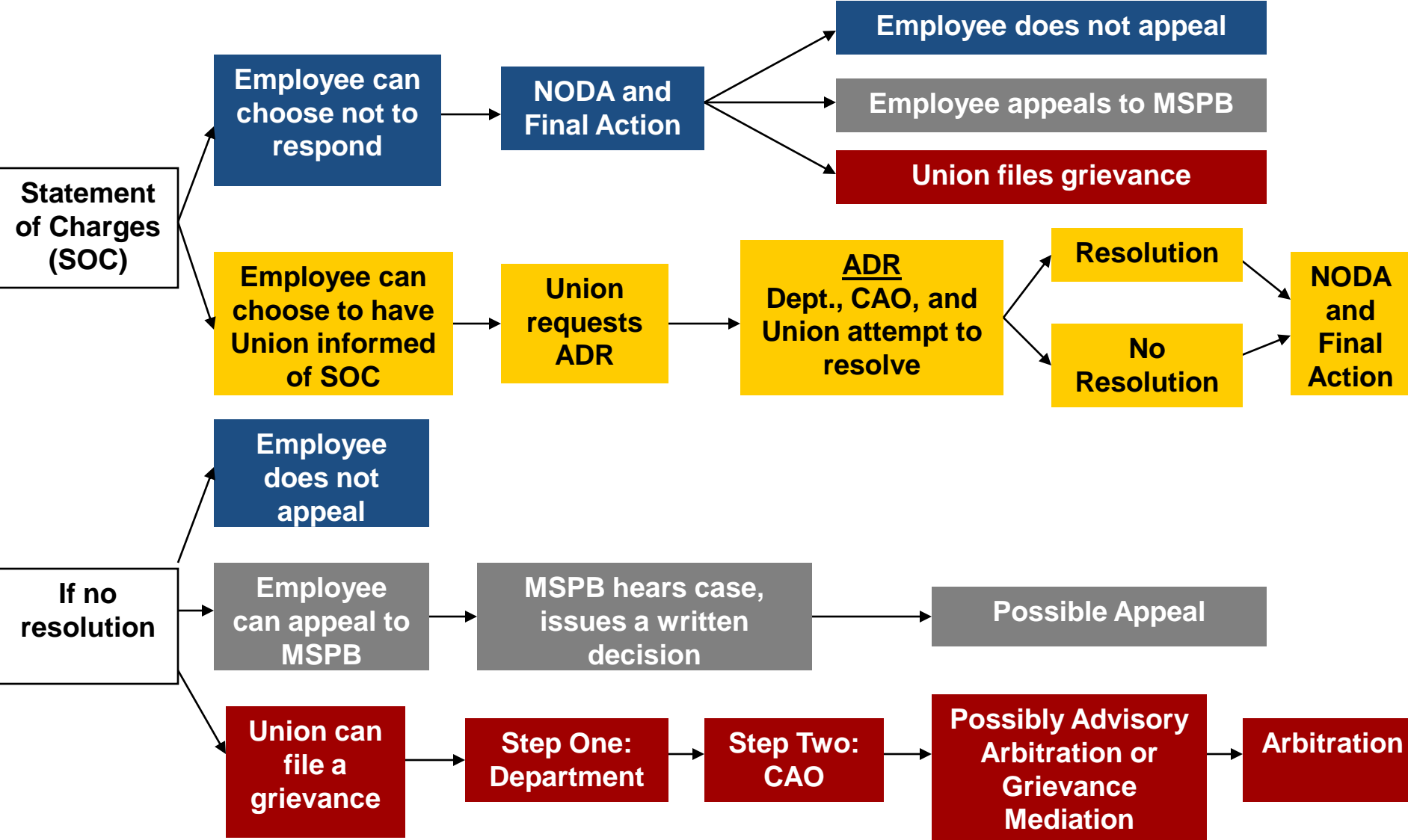
- **Finalize per diem cost per inmate measure**
 - **Status:** Partially Completed

- **Develop tools for more efficient analysis of financial information**
 - **Status:** Partially Completed
 - Tool developed and ready to be sent to DOCR.
 - Most difficult part is getting raw financial data – Financial Switchboard does not provide this capability right now, so it is a custom request to OMB.

- **Today's Topic**
 - Explore options for reducing the length of the ADR process and identify associated costs.



Methods of Resolving Disciplinary Disputes

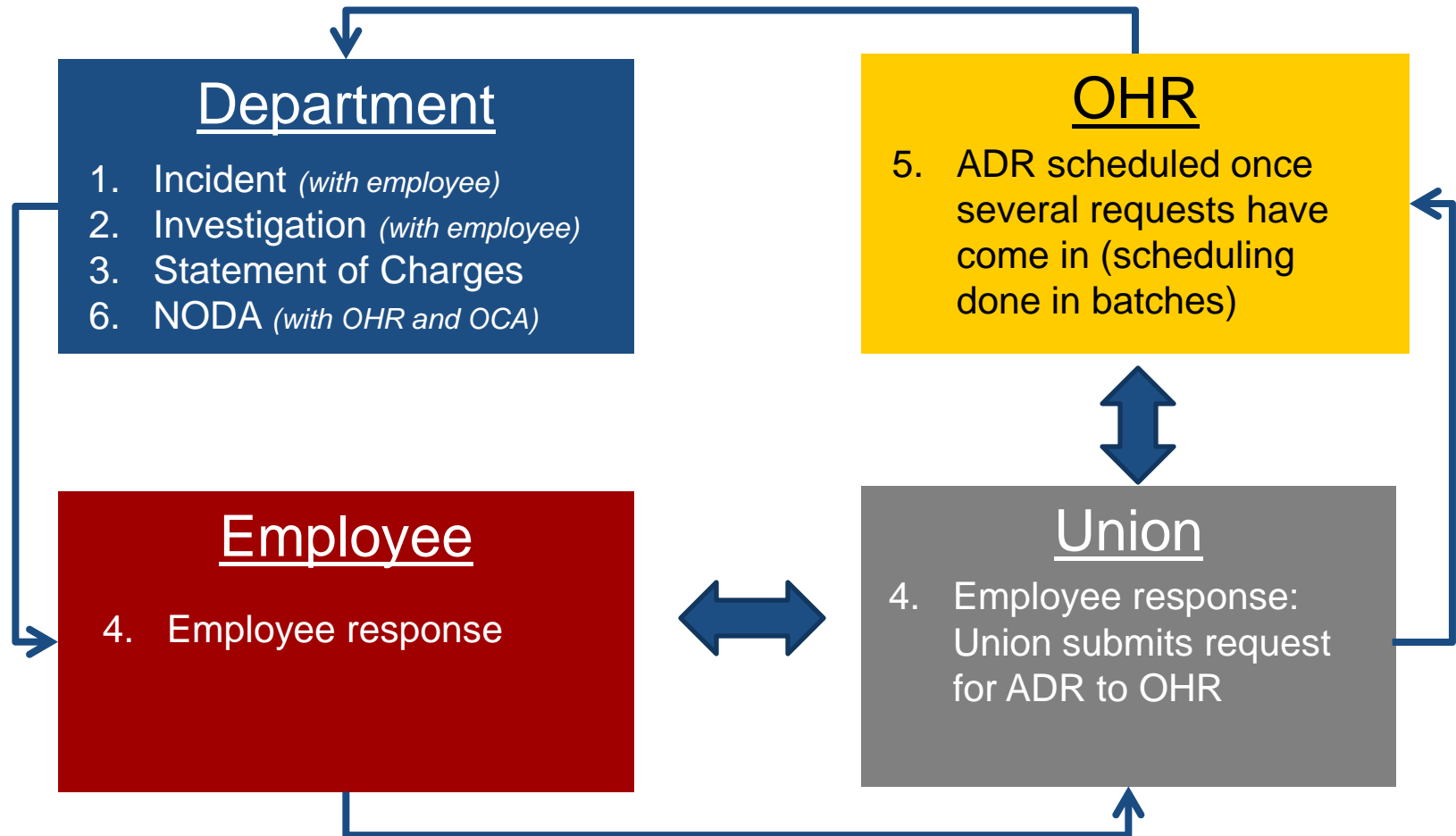


Disciplinary Process Timeline

Process Step	Limitations
1. Incident	SOC within 30 calendar days of knowledge of the incident unless an investigation is justified <i>(Article 33-2(b) of the personnel regulations –Article 28.1 of the MCGEO contract simply says that the action must be initiated “promptly”)</i>
2. Investigation	
3. Statement of Charges (SOC) presented to employee	
4. Employee response Employee communicates with the union who requests an ADR hearing on the employee’s behalf. The Union has the right to request from management copies of all documents supporting a disciplinary action.	Allowed at least 10 days from filing of SOC <i>(Articles 26.2(b)(4) & 28.4(b) of the MCGEO contract and Section 33-6 (b) (2) of the Personnel Regulations)</i> Right to request documents <i>(Article 28.6 (f) of the MCGEO Contract)</i>
5. ADR scheduled and held	
6. Notice of disciplinary action (NODA) presented to employee The NODA is prepared by the department and sent to OHR and the Offices of the County Attorney for comment prior to delivery to the employee.	At least 5 days prior to effective date, except in cases of theft of County property or serious violations of policy that create a health or safety risk <i>(Section 28.3 of the MCGEO contract)</i>



Disciplinary Process Timeline: Information Flow



OHR is not necessarily aware of the case until a request for ADR is received. After SOC, the Department does not reengage the process until the ADR itself.



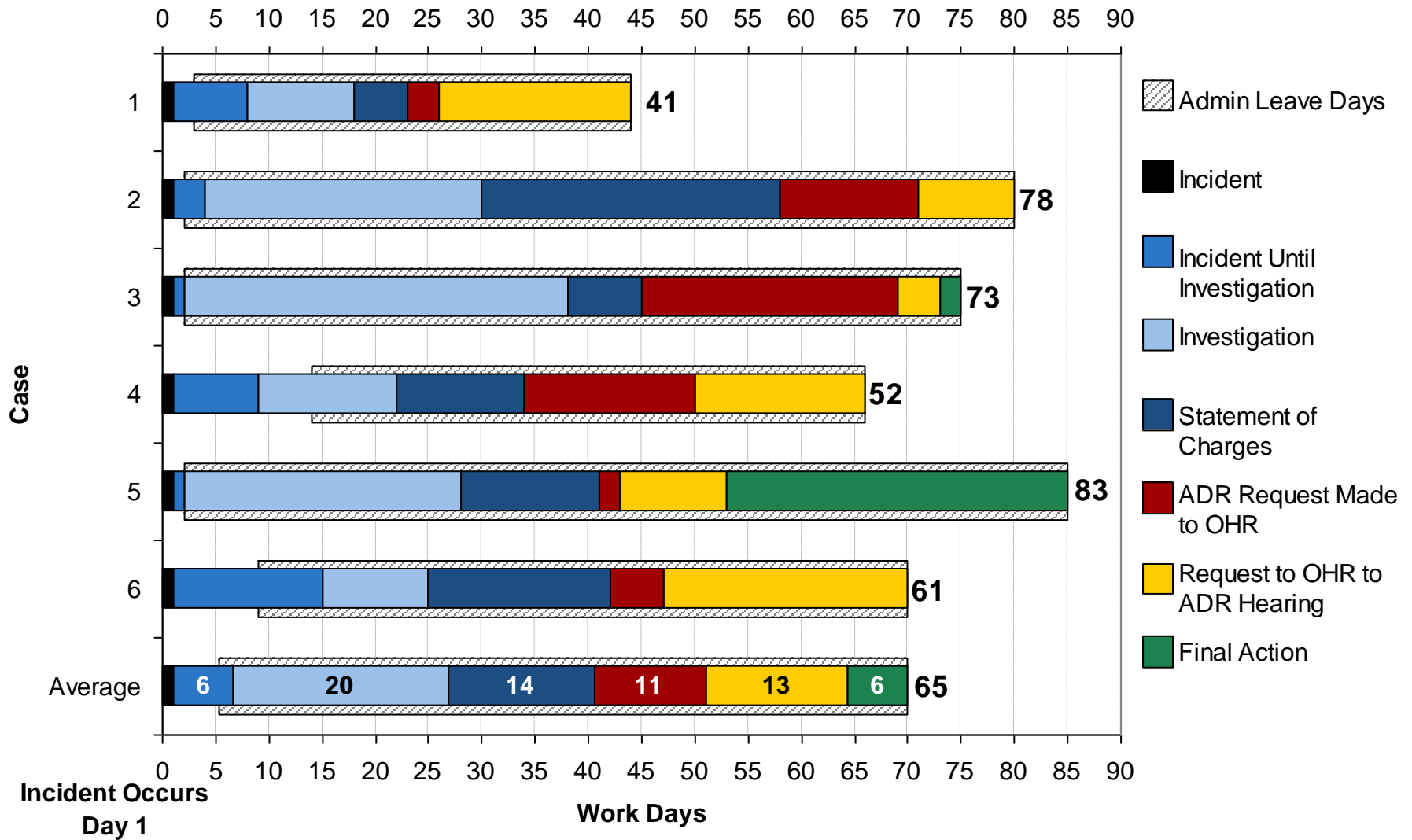
Data From Actual DOCR Cases

- **7 cases of employees out on administrative leave prior to ADR between January 1, 2007 and January 16, 2008 (of 22 total cases)**
- **One case is an atypical FMLA case and is excluded.**

- **Average length of disciplinary process**
 - 6 working days: Date of incident to start of investigation
 - 20 working days: Investigation
 - 14 working days: Writing of the Statement of Charges
 - 11 working days: Employee response
 - 13 working days: ADR scheduled and held
 - 6 working days: NODA filed and final action taken

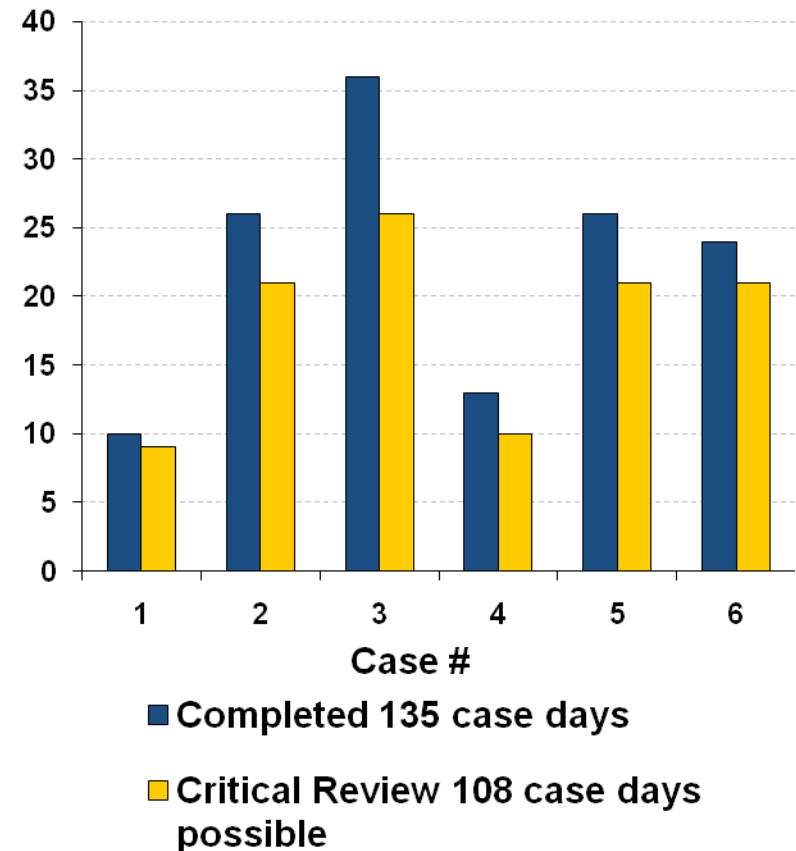


Timeline of Six DOCR Cases That Went to ADR



Recommendations: DOCR

- **Opportunities to shorten investigation timeline**
 - 8 days were identified in witness processing gaps
 - 7 days in time to start the investigation (primarily days off, leave, or training by the investigator)
 - 7 days in the typing of the document
 - 5 days due to scheduling a union representative for an employee to be interviewed
- **Investigation Recommendations**
 - Give priority to investigations where the employee is placed on administrative leave
 - Monitor Investigator assignments to assure scheduling does not contribute to delays
 - **Target of 21** days for the completion of all investigations



Recommendations: DOCR

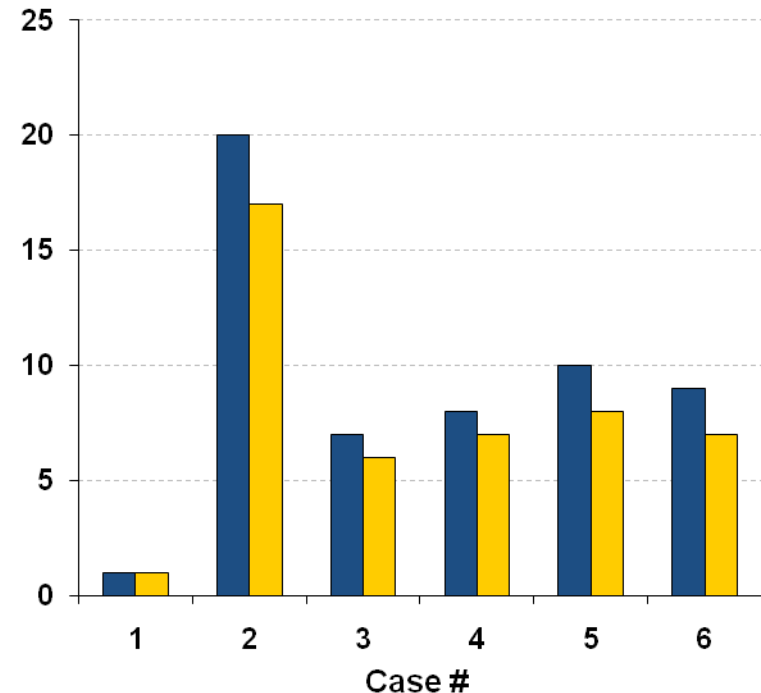
▪ Statement of Charges Recommendations

- In cases where employee is on administrative leave, send the SOC via registered, overnight mail so that it is known when the employee receives the SOC.
- Work with Labor and County Attorney on an electronic review process with time tracking (better tracking of who and what causes delays)
- Provide a copy of the SOC to OHR to keep track of days lapsed prior to employee/MCGEO requesting ADR.

or

OHR provides access to shared database where this type of information can be added by the Department.

- **Target of 3** days for preparation and review of SOC's by DOCR



■ SOC Preparation 55 days

■ SOC Preparation Review 47 days



Recommendations: DOCR

- **Refine processing of Notice of Disciplinary Action (NODA):**
 - Editing, commenting, and approval of NODA by DOCR, OHR, and County Attorney to be done electronically.
 - OHR to keep track of days lapsed since Department submitted for final approval.



Recommendations: OHR

- **Hearings will be scheduled within 10 days receipt of the Statement of Charges being given to the employee.**
- **The ADR administrator will be given advance notice of an impending dismissal.**
- **A special ADR session will be held outside the normal ADR schedule.**



Summary Recommendations

■ Investigation

- DOCR will monitor investigations to ensure that cases where an employee is on administrative leave get priority with a target of no more than 21 days.

■ Statement of Charges (SOC)

- DOCR will send SOC to employees on administrative leave via registered overnight mail.
- OHR will be notified when the Statement of Charges is given to the employee.
- Writing of the Statement of Charges (SOC) will be coordinated electronically between DOCR, OHR, and OCA.

■ Scheduling of the ADR

- In cases where the employee is on administrative leave, OHR will schedule an ADR session to be held 10 working days after the employee receives the Statement of Charges.

■ Notice of Disciplinary Action (NODA)

- Writing of the NODA will be coordinated electronically between DOCR, OHR, and OCA.



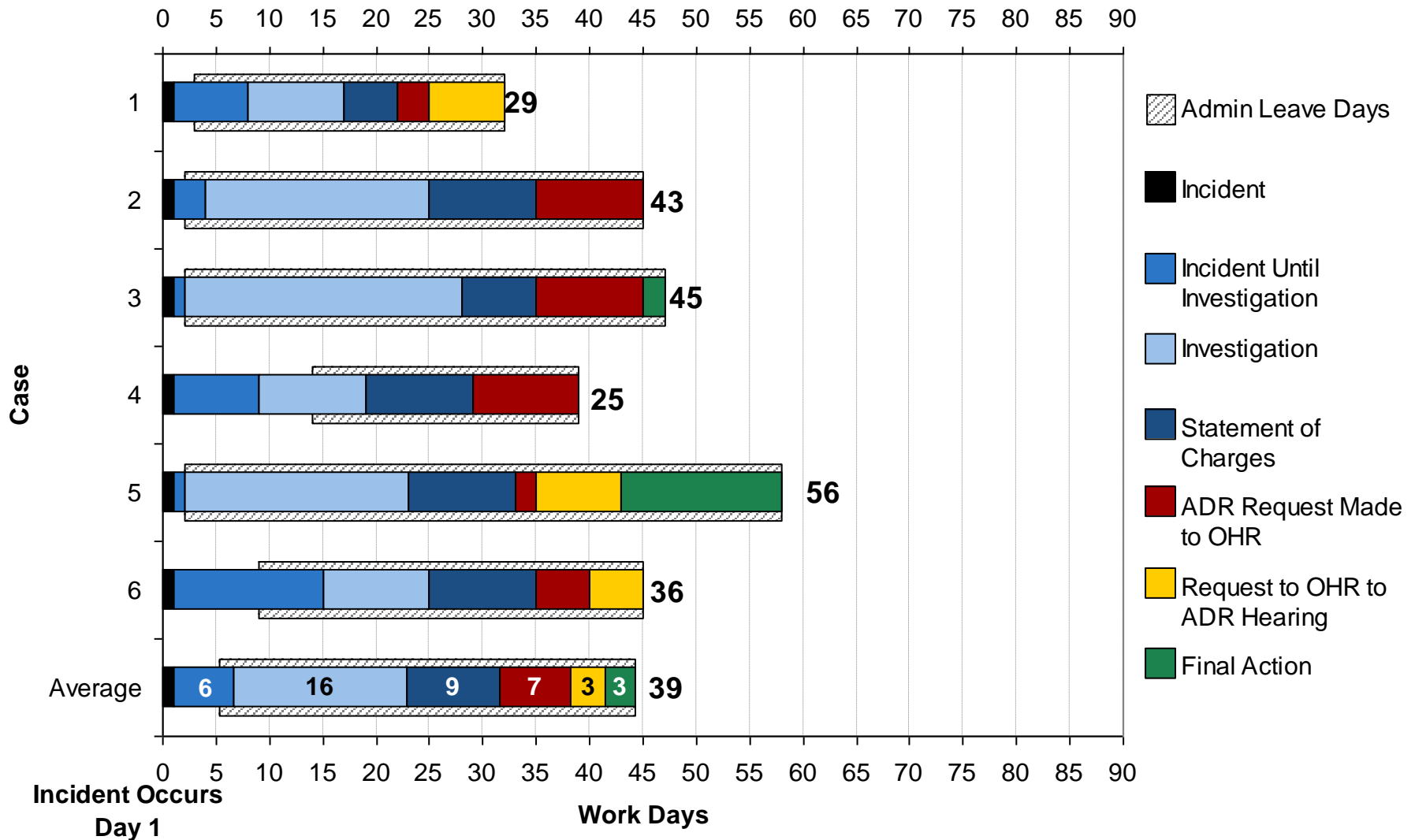
Potential Savings From These Cases

- Dollars represent just overtime costs saved.
- Hold investigations to 21 days long
- Hold writing and delivery of SOC to 10 working days
- Hold employee response time to 10 working days
- Schedule these cases for 10 working days after SOC.
- Hold NODA/final action to 3 weeks

Process Step	Days Saved	Dollars Saved
Investigation	24	\$7,000
Statement of Charges	30	\$9,000
ADR Request to OHR	23	\$7,000
ADR	60	\$18,000
Final Action	17	\$5,000
Total Days on Leave	154	\$46,000



Revised Timeline for Six DOCR Cases That Went to ADR



Other Issues Related to ADR

- **How relevant are the changes to this process for other departments?**
 - How many cases exist in other departments of employees on administrative leave prior to ADR?
 - What is the number of overall cases by department?
- **Anecdotes and generic statements heard:**
 - “Most cases get reduced at ADR.”
 - “ADR hearings are only held once a month.”
 - “It takes a long time to get an ADR.”
- **Overarching question: What is behind the discrepancies between departments in the number of cases that go through ADR?**



General ADR Data

Cases where the employee was on AML, 2007 only, by department

	Total Cases by Department	Cases where the employee was on AML
DPWT	43	4
DOCR	18	5
HHS	9	1
Police	5	1
Liquor Control	6	
Recreation	3	
Libraries	2	
DHS	1	
DPS	1	
MCFRS	1	
RSC	0	
DHCA	0	
Sheriff	0	
Grand Total	89	11

In 2007, there were *at least* 11 ADR hearings held where the employee was on administrative leave prior to ADR.



General ADR Data

Number of ADR Cases, 2004-2007, by department

	2004	2005	2006	2007	Total ADR Cases	Total Eligible Employees	Cases Per Eligible Employee
DPWT	24	43	33	43	143	1,219	0.12
DOCR	46	32	24	18	120	424	0.28
Liquor Control	5	5	6	6	22	198	0.11
Police	2	10	4	5	21	452	0.05
HHS	3	3	3	9	18	1,265	0.01
Libraries	3	0	1	2	6	358	0.02
DHS	0	1	2	1	4	48	0.08
Recreation	0	1	0	3	4	112	0.04
DPS	1	1	0	1	3	165	0.02
MCFRS	0	1	0	1	2	38	0.05
RSC	2	0	0	0	2	30	0.07
DHCA	0	1	0	0	1	59	0.02
Sheriff	0	1	0	0	1	131	0.01
Finance	0	0	0	0	0	56	0.00
DTS	0	0	0	0	0	52	0.00
DEP	0	0	0	0	0	37	0.00
DED	0	0	0	0	0	23	0.00
Total by Year	86	99	73	89	348	4,764	0.07

Data Source: OHR spreadsheet of ADR cases



“Most cases get reduced at ADR.”

Number of cases where, relative to proposed discipline, outcome was...	Proposed Level of Discipline						Grand Total
	Forfeiture of Leave	Within-grade reduction	Suspension	Suspension pending investigation	Demotion	Dismissal	
Decreased	5	3	197	2	2	52	261
Increased	2		2	1			5
Same	1		26	7		57*	91
Undecided			2			3	5
Grand Total	8	3	227	10	2	112	362

* In most of these cases, the employee resigned rather than being dismissed.



Incidence of Decreased Discipline, by department

	Suspension			Dismissal		
	Total	Decreased	%	Total	Decreased	%
DPWT	86	63	73.3%	53	31	58.5%
DOCR	96	90	93.8%	25	6	24.0%
Liquor Control	13	13	100.0%	9	5	55.6%
HHS	11	11	100.0%	9	3	33.3%
Police	12	11	91.7%	5	1	20.0%
Libraries	3	3	100.0%	3	2	66.7%
DHS	3	3	100.0%	1	1	100.0%
Recreation				4	1	25.0%
DPS	1	1	100.0%			
MCFRS				1		0.0%
RSC				1	1	100.0%
DEP	1	1	100.0%			
DHCA	1	1	100.0%			
Sheriff				1	1	100.0%
Grand Total	227	197	86.8%	112	52	46.4%

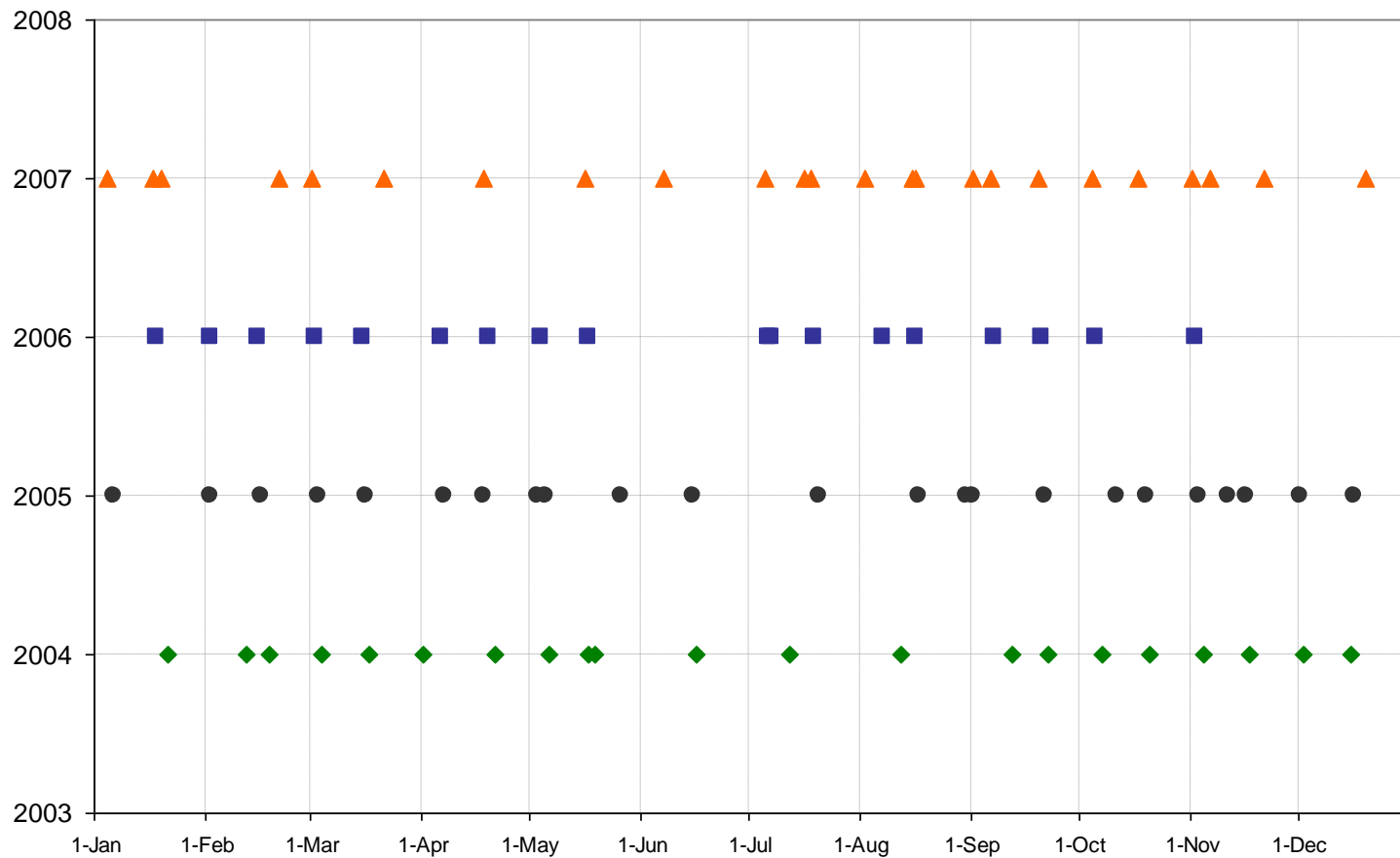


Proposed Discipline Type

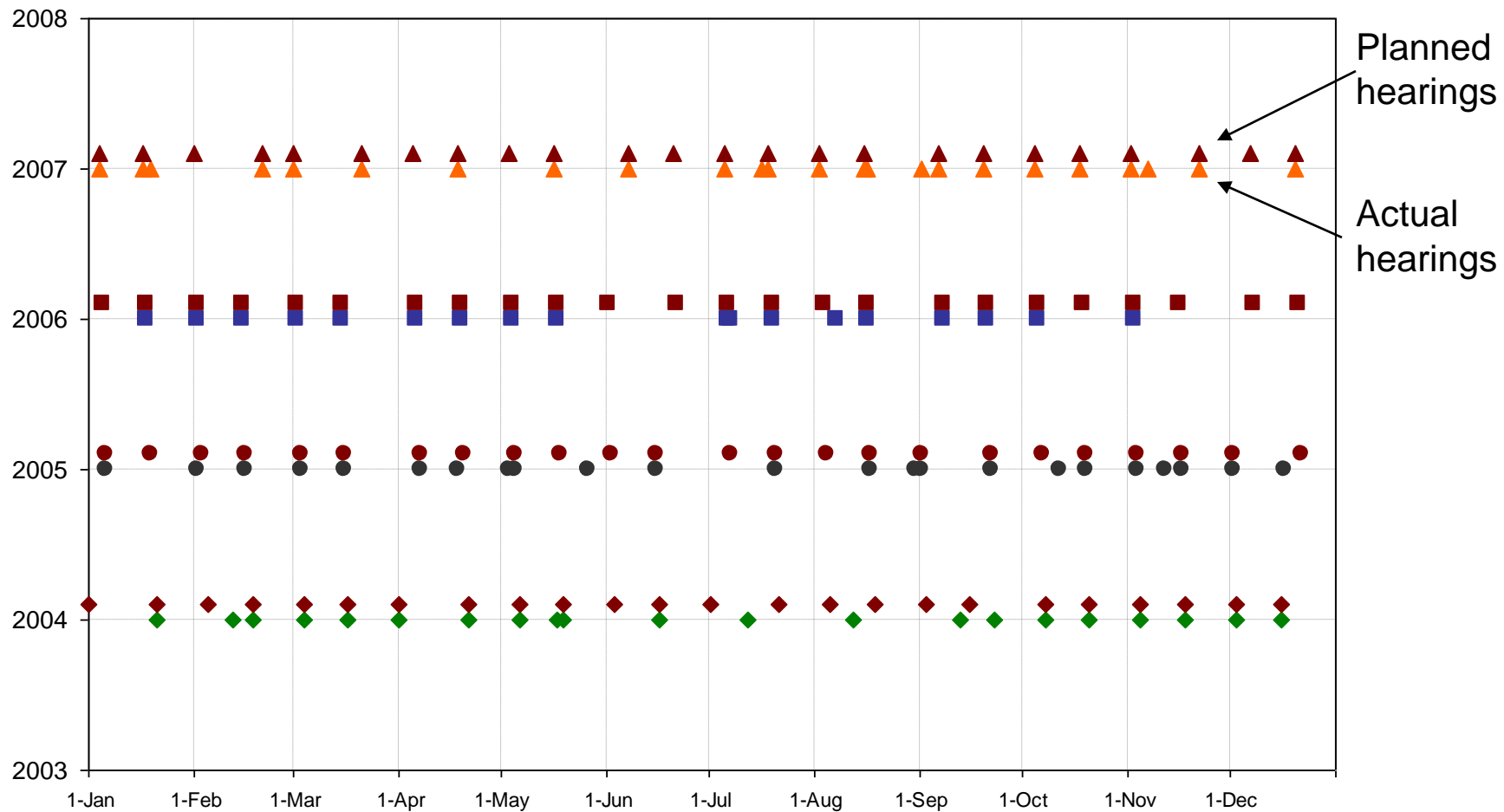
Outcome Discipline Type	Forfeiture of leave	Within-grade reduction	Suspension	Suspension pending investigation	Demotion	Dismissal	Grand Total
None			2	1		2	5
Last Chance Agreement only			2			4	6
Training			2				2
Reassignment						2	2
(b) Written reprimand	1	1	32		1		35
(c) Forfeiture of Leave	5	1	60			2	68
(d) Within-grade reduction			1		1	3	5
(c) as (e) Suspension	1		13			1	15
(d) as (e) Suspension		1				1	2
(e) Suspension	1		111			33	145
(c) as (f) Suspension pending investigation				2			2
(f) Suspension pending investigation				6		2	8
(g) Demotion			1				1
(h) Disability retirement						1	1
(h) Retirement						1	1
(h) Resignation with admin leave						21	21
(h) Resignation				1		31	32
(h) Dismissal with admin leave						1	1
(h) Dismissal						3	3
<i>Postpone ADR</i>			1			1	2
<i>Undecided</i>			2			3	5
Grand Total	8	3	227	10	2	112	362

“ADR hearings are only held once a month.”

Frequency of ADR Meetings, 2004-2007



Frequency of ADR Meetings, 2004-2007



32% of planned ADR hearings were not held on that date.



“It takes a long time to get an ADR.”

- **All DOCR cases in 2007**

- 9.7 working days: Filing of Statement of Charges to ADR request being made
- 14.4 working days: ADR request received by OHR to ADR hearing
- **Total working days: 24.1**

- **DOCR cases where individual was on AML**

- 11.4 working days: Filing of Statement of Charges to ADR request being made
- 12.6 working days: ADR request received by OHR to ADR hearing
- **Total working days: 24.0**

Of the almost 5 weeks between the SOC and the ADR hearing, 40% of that time is spent waiting on the employee response.



Other Issues Related to ADR

- **Overarching question: What is behind the discrepancies between departments in the number of cases that go through ADR?**
 - How do departments discipline employees?
 - What is the correct use of the ADR process?
 - How can OHR better facilitate disciplinary issues?
 - What about employees that are not eligible to go through the ADR process?



Wrap-Up

■ Follow-up items

- Investigate discrepancies between departments' use of disciplinary actions.
- Differences between disciplinary actions taken between union vs. non-union employees.

■ Date for next meeting

